

**TOWN OF PROVINCETOWN
ZONING BOARD OF APPEALS
MEETING MINUTES OF
April 21, 2016**

Members Present: David M. Nicolau, Robert Littlefield, Jeffrey Haley and Jeffrey Gould.

Members Absent: Amy Germain (excused), Rob Anderson (unexcused), Joe Vasta (excused) and Bryan Armstrong (excused).

Others Present: David Gardner (Assistant Town Manager) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair David M. Nicolau called the Work Session to order at 6:32 P.M.

PENDING DECISIONS:

FY16-31 **8 Kiley Court (*Residential 3 Zone*), Susan Pollack on behalf of Grace Rizk –**
David M. Nicolau, Robert Littlefield, Jeffrey Haley and Jeffrey Gould sat on the case. The Board received updated site plans.

FY16-30 **34 Commercial Street (*Residential 2 Zone*), LeBlanc Jones Landscape Architects on behalf of 34 Commercial Street Trust –**
David M. Nicolau, Jeffrey Haley, Robert Anderson and Jeffrey Gould sat on the case. Jeffrey Gould read the decision. *Jeffrey Haley moved to approve the language as written, Jeffrey Gould seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).*

MINUTES: March 17, 2016– *Jeffrey Haley moved to approve the language as written, Jeffrey Gould seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).*

FY16-32 **176 Race Point Road (*Seashore Zone*), Provincetown Airport Commission –**
David M. Nicolau, Jeffrey Haley, Robert Anderson and Jeffrey Gould sat on the case. The decision was not ready.

FY16-34 **199 Commercial Street, (*Town Commercial Center Zone*), Alan J. Cullinane, dba Café Heaven, on behalf of Scott Barron –**
David M. Nicolau, Jeffrey Haley, Robert Anderson and Jeffrey Gould sat on the case. David M. Nicolau read the decision. *Jeffrey Haley moved to approve the language as written, Jeffrey Gould seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).*

Chair David M. Nicolau adjourned the Work Session at 7:00 P.M.

PUBLIC HEARING

Chair David M. Nicolau called the Public Hearing to order at 7:01 P.M. There were four members of the Zoning Board present and four absent.

PUBLIC HEARINGS:

FY16-37 **132 Bradford Street (Town Commercial Center Zone), Steve Riley –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to allow public entertainment in a newly-created theater space and the installation of a bar for the service of alcohol to patrons of the theater. There was a request from the applicant to postpone the matter to the June 16, 2016 Public Hearing.

Jeffrey Haley moved to grant the request to postpone Case #FY16-37 until the June 16, 2016 Public Hearing at 7:00 P.M., Jeffrey Gould seconded and it was so voted, 3-0-1 (Robert Littlefield abstaining).

Robert Littlefield moved to take Case #FY16-41 out of order, Jeffrey Haley seconded and it was so voted, 4-0.

FY 16-41 **29 Tremont Street (Residential 1 Zone), Peter Epstein –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2650, Permitted Accessory Uses, of the Zoning By-Laws to install a shed. Chair David M. Nicolau explained to the applicant that there were only four members available to hear the case and, since a unanimous vote would be required in order to grant a Special Permit, he could proceed or continue until five Board members could be seated. The applicant chose to proceed. David M. Nicolau, Robert Littlefield, Jeffrey Haley and Jeffrey Gould sat on the case.

Presentation: Peter Epstein appeared to present the application. He stated that the shed would measure 8' by 12', 96 sq. ft. The shed will be located 10' from the rear yard setback and 7.5' from the side yard setback, which are both 50% of the distance of each of those setbacks from the property line. According to the Zoning By-Laws, a Special Permit may be granted by the Board for the installation of a utility/garden shed that meets at least 50% of the side and/or rear yard setback requirements of the district in which the property is located.

Public Comment: None. There was 1 letter from an abutter who expressed concerns about the location of the shed and was not in support of the application.

Board Discussion: The Board questioned Mr. Epstein. Mr. Epstein inquired as to whether he should move the shed to a location 7.5' from both the rear and side yard setbacks in an effort to address the concerns of the abutter who wrote the letter, in order to make it less intrusive.

Jeffrey Haley moved to grant a Special Permit pursuant to Article 2, Section 2650, Permitted Accessory Uses, of the Zoning By-Laws to install a shed as presented at the property located at 29 Tremont Street (Res 1), Jeffrey Gould seconded and it was so voted, 4-0. Robert Littlefield will write the decision.

- FY16-29** **338 Commercial Street (Town Commercial Center Zone), BHC, LLC**
(postponed from March 3rd) -
The applicant seeks a Special Permit pursuant to Article 2, Sections 2470, Parking Requirements, and 2460, Building Scale, and Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to construct a dormer and outdoor stair on the east side of the structure and seeking relief from the parking requirement for a newly-established residential unit. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. *Robert Littlefield moved to postpone Case #FY16-29 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.*
- FY16-33** **183-185 Commercial Street (Town Commercial Center Zone), John Yingling, dba Bubala's (postponed from March 17th) –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building Scale, to increase the scale of the building by constructing a second floor on the rear portion of the existing structure and the installation of an outdoor stair with no change to the existing footprint. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. *Robert Littlefield moved to postpone Case #FY16-33 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.*
- FY16-35** **132 Bradford Street (Town Commercial Center Zone), Michael Riley –**
The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display bicycles along the Bradford Street side of the building. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. *Robert Littlefield moved to postpone Case #FY16-35 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.*
- FY16-36** **132 Bradford Street (Town Commercial Center Zone), Michael Riley –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, of the Zoning By-Laws to operate a 405-space parking lot. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. *Robert Littlefield moved to postpone Case #FY16-36 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.*
- FY16-38** **166 Bradford Street Extension (Residential 3 Zone), John R.A. Pears –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2640, Building

Scale, of the Zoning By-Laws to construct a two-family home exceeding the allowable maximum scale. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. **Robert Littlefield moved to postpone Case #FY16-38 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.**

- FY16-39** **136 Bradford Street (Town Commercial Center Zone), Michael Riley –**
The applicant seeks a Special Permit pursuant to Article 3, Section 3420, Outdoor Display, of the Zoning By-Laws to display bicycles along the Bradford Street side of the building. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. **Robert Littlefield moved to postpone Case #FY16-39 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.**
- FY16-40** **338 Commercial Street (Town Commercial Center Zone), Tarrnum K. Williams, d/b/a Kabob-E-Licious –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to increase the seating of the existing 19-seat restaurant with a full liquor license by 5 seats, for a total of 24 seats. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. **Robert Littlefield moved to postpone Case #FY16-40 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.**
- FY16-42** **509 Commercial Street (Residential 3 Zone), Lyn Plummer, on behalf of 509 Commercial Street, LLC –**
The applicant seeks a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to continue the east gable roof line and enclose a deck. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. **Robert Littlefield moved to postpone Case #FY16-42 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.**
- FY 16-43** **31 Bradford Street (Residential 3 Zone), Kevin Bazarian, on behalf of Devon Ruesch –**
The applicant seeks a Special Permit pursuant to Article 2, Section 2460, Special Permit Requirements, of the Zoning By-Laws to change a restaurant-seating layout. A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. **Robert Littlefield moved to postpone Case #FY16-43 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.**
- FY16-44** **386 Commercial Street (Town Commercial Center Zone), James DeRosier, on behalf of Waterford Property, LLC –**
The applicant seeks Special Permit pursuant to Article 2, Section 2460, Special

Permit Requirements, of the Zoning By-Laws to reconfigure a bar and seating layout, A quorum was not available to hear the matter and it will be postponed to the April 28, 2016 Public Hearing at 6:30 P.M. ***Robert Littlefield moved to postpone Case #FY16-44 until the April 28, 2016 Public Hearing at 6:30 P.M., Jeffrey Gould seconded and it was so voted, 4-0.***

NEXT MEETING: The next meeting will take place on Thursday, April 28, 2016. It will consist of a Public Hearing at 6:30 P.M.

ADJOURNMENT: *Jeffrey Haley moved to adjourn at 7:20 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2016
David M. Nicolau, Chair